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RUEHNE/AMEMBASSY NEW DELHI PRIORITY 1288
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C O N F I D E N T I A L SECTION 01 OF 02 COLOMBO 001171

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DEPARTMENT FOR SCA/INS
MCC FOR D NASSIRY AND E BURKE

E.O. 12958: DECL: 07/17/2017
TAGS: [PGOV](#) [PREL](#) [PTER](#) [PHUM](#) [MOPS](#) [CE](#)
SUBJECT: SRI LANKA: EMINENT PERSONS REASSURED AFTER MEETING
PRESIDENT; HOLD THIRD PLENARY

REF: A. COLOMBO 966

[1](#)B. COLOMBO 835
[1](#)C. AND PREVIOUS

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Classified By: Ambassador Robert O. Blake, Jr., for reasons 1.4(b,d).

[1](#)1. (C) SUMMARY: The International Independent Group of Eminent Persons (IIGEP) held its third plenary meeting with the Commission of Inquiry (COI) August 17 - 20. The positive tone of the meeting reassured even skeptics within the IIGEP. U.S. Eminent Person Gene Dewey noted that the possibility of IIGEP prematurely ending its mission in Sri Lanka now seemed off the table. IIGEP Assistant David Savage told us difficult issues were discussed openly during the plenary and some progress was made. The IIGEP met President Mahinda Rajapaksa for the first time on August 19, who mounted a "spirited defense" of the Attorney General's participation in the COI. Dewey noted that following this meeting, several EPs were further encouraged about the COI's future. Dewey and IIGEP Assistants Dana Urban and Savage have been working with the Justice Ministry on a proposed victim and witness protection bill. IIGEP is drafting its second Quarterly Report to the President, which it plans to present on September 17. The plenary and the meeting with the President did not produce significant progress but served to reassure the Eminent Persons that IIGEP should continue its observation of the COI at least through the end of the original mandate in November 2007. End Summary.

Third Plenary Cordial and Productive

[1](#)2. (C) The International Independent Group of Eminent Persons (IIGEP) met in Colombo for its third plenary with the Commission of Inquiry (COI) from August 17 through 20. U.S.

Eminent Person Gene Dewey reported to Ambassador on August 21 that the meeting went "better than expected," given the recent tensions between the two groups. The positive tone of the meeting reassured even the skeptics within the IIGEP. Dewey noted that the possibility of several resignations from the IIGEP has receded at least for now.

¶3. (C) IIGEP Assistant David Savage told us that the CoI and IIGEP discussed difficult issues more openly than during the previous plenaries and made some progress. The Commissioners agreed to hold a meeting to discuss the issue of the Attorney General's (AG) involvement in the COI, acknowledging that as part of an independent commission, the decision was theirs to make. The EPs pressed hard on the issue of disclosure of information to the IIGEP. The COI agreed to hand over documents in their original language immediately to IIGEP and to pass along translated versions when they are available. The COI also agreed to honor its previous commitment to cooperate with the IIGEP assistants when the EPs are out of the country. The EPs, for their part, undertook to have at least one of their members in-country as consistently as possible. Savage noted that at least one EP is scheduled to be in Sri Lanka for all but a few COI sessions between now and the end of the year.

President Defends the Attorney General

¶4. (C) The IIGEP met President Mahinda Rajapaksa on August 19. Dewey told Ambassador that the meeting, described in IIGEP's press release as "useful and constructive," covered three now-familiar themes: the role of the AG's office in the COI, the need for adequate victim and witness protection law, and the lack of immunities for the IIGEP Assistants. The President presented a "spirited defense" of the AG's participation, Dewey said, and commented that the AG has been

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present in every COI Sri Lanka has conducted. (Note: This argument is unconvincing. Sri Lanka's previous Commissions of Inquiry have produced very little. A recent study commissioned by IIGEP reports that the AG's involvement in these commissions was a key reason for their failure.) The Commissioners joined in defense of the AG, however, arguing that they cannot afford enough independent counsel to replace the depth and expertise provided by the AG's office. The President ended the discussion of this issue by saying that the COI could dismiss the AG at any point if it chose to do so. Attorney General C.R. De Silva said that the GSL is working to finalize a witness protection bill, with input from IIGEP, and noted that it should be complete within two months. Dewey noted that following this meeting, several EPs were further encouraged about the future of the COI.

IIGEP Weighs in on Witness Protection

¶5. (C) Dewey and IIGEP Assistants Dana Urban and David Savage have been working with the GSL on the proposed victim and witness protection legislation. The GSL's Law Commission initially invited IIGEP to comment on the draft legislation, but then claimed that the proposed bill was "beyond recall," having already gone to acting Justice Minister Dilan Perera. Dewey and the IIGEP expert assistants were able to secure an appointment with Perera, however, to discuss the bill. Perera agreed to delay presenting the bill to Cabinet in order to incorporate IIGEP's recommendations into the draft. We understand that Perera arranged a further meeting on technical witness protection issues with the Secretary of the Justice Ministry that took place on August 23.

Next Steps

¶6. (C) The IIGEP is currently drafting its second Quarterly Report to the President, which will be presented to him on

September 17. IIGEP plans to submit its next public statement to the GSL for an agreed two-week review period within the next few days and plans to release it also on or about September 17. Dewey noted that the report and statement are timed to coincide approximately with the next Human Rights Council meeting in Geneva.

¶17. (C) Dewey and Savage report that some progress is being made on the case of the five youths killed in Trincomalee and on the killing of the 17 Action Against Hunger workers in Muttur. They note that the COI has picked up the pace of its investigative hearings. Separately, Savage has been taking testimony from the parents of one of the five youths and will submit this information to the COI once the parents are safely out of the country.

¶18. (C) COMMENT: The plenary with the COI and the meeting with the President did not produce significant breakthroughs. Nevertheless, both served to persuade the EPs that IIGEP should continue its observation of the COI, at least through the end of the original mandate in November. There also seems to be new hope that perhaps one of the fifteen cases, most likely the Trincomalee or Muttur case, will be resolved by then. In the final analysis, IIGEP input into the Victim and Witness Protection law should help to ensure a comprehensive piece of legislation with the potential to provide some lasting benefit to Sri Lanka, and might even help to deter future human rights violations.
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